

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 7775 of 2001

TUESDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

P.Venkat Rao, S/o. Late P.Buchi Raju
H-12 A, Saket, New Delhi - 110017

..... PETITIONER

AND

1 The Government of A.P. Rep by its Secretary to Revenue,
Secretariat, Hyderabad. And others.

....RESPONDENTS

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 7775 of 2001

ORDER:

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The writ petitioner is the member of M/s The Jubilee Hills Co-operative Housing Society, Hyderabad and was allotted Plot No.933 admeasuring 1419 Sq.yards equivalent to 1187 sq.mts and the same was registered in his favour through a registered sale deed executed on 23-5-1987. The said sale deed was finally registered as document No.2248 of 1996 in book No.1 volume No.1899 registered at pages 475 to 482 dated 1-8-1996 in the office of the Sub-Registrar, Banjara Hills, Hyderabad. After registration of the said plot, the said Society changed its stand and allotted Plot No.916/K admeasuring 485 sq.yds instead of plot no.933. In view of the same, the society and the Municipal Corporation of Hyderabad had made rectification deed dated 31-07-1996 mentioning specific boundaries of plot NO.916/K. By virtue of the same, the petitioner acquired good title from the society along with the rights that have been conferred upon the society. The writ petitioner by invoking the jurisdiction under Article 226 of the Constitution of India seeking a declaration that the proceedings NO.183/TP5/CCP/-99/2257 dated 10-08-1999 issued by the

3rd respondent for refusing the building sanction plan of the premises of the petitioner is illegal and arbitrary.

Heard both sides.

It is the contention of the learned counsel for the writ petitioner that the Government issued a Memo No.906/UC.II/SI-1 dated 27-4-1981 giving clear instructions to the effect that the vacant land held by the Jubilee Hills Co-op. Housing Building Society Ltd., Banjara Hills, Hyderabad is exempted from the provisions of Chapter-III of the Urban Land (Ceiling and Regulation) Act, 1976. Therefore, in view of the above Memo to that of Government of Andhra Pradesh Memorandum No.833/U.C.II/79-3 dated 28th September, 1979, there is no legal objection to approve the building sanction plan of the petitioner by the Municipal Corporation of Hyderabad and therefore, the action of the 3rd respondent in not issuing the same is not just and proper.

I have perused the material available on record.

No counter is filed.

I have perused the material available on record.

For the purpose of convenience, I deem it appropriate to refer the relevant portion of the Government Memo No.906/U.C.II/81-1 dated 27-4-1981 and it is thus:

“... 2. In this connection, a copy of the Government Memo cited is sent herewith to the Inspector General of Registration and Stamps, Hyderabad, wherein clear instructions were issued to the effect that the vacant land held by the Jubilee Hills Co-op. House Building Society Ltd., Banjara Hills, Hyderabad is exempt from the provisions of Chapter-III of the Urban Land (Ceiling and Regulation) Act, 1976. In view of this, there is no objection to the registering of plots measuring over and above the ceiling limit of 1000 sq.mts. in extent in the names of the allottees as and when the Jubilee Hills Co-operative House Building Society Ltd., Hyderabad seeks to transfer the plots in the names of the allottees. “

The fact remains that the writ petitioner submitted an application dated 03-03-1999 for grant of exemption as per the above Government Memo. The question as to whether the petitioner is entitled for grant of exemption in accordance with the above Memo is required to be adjudicated by the revenue authorities on giving due opportunity to the petitioner.

Having regard to the facts and circumstances of the case and in the light of the above Memo, without going into the merits of the case, I deem it appropriate to direct the

2nd respondent-Special Officer and Competent Authority, to consider the application of the petitioner dated 03-03-1999 (if the said application is not yet disposed of as on to-day) and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of the order after giving opportunity to the petitioner. However, in case, the authorities concerned passed any orders in favour of the petitioner, he can resubmit his application for sanction of building plan and it is for the Municipality to the consider and pass appropriate orders in accordance with law.

With the above observation, the writ petition is disposed of. No costs.

02-08-2005

Mjl/*